

STATE OF NEW HAMPSHIRE
DEPARTMENT OF STATE

IN THE MATTER OF:)

Local Government Center, Inc.;)
Government Center Real Estate, Inc.;)
Local Government Center Health Trust, LLC;)
Local Government Center Property-Liability Trust,)
 LLC;)
Health Trust, Inc.;)
New Hampshire Municipal Association Property-Liability)
 Trust, Inc.:)
LGC – HT, LLC)
Local Government Center Workers’ Compensation)
 Trust, LLC;)

Case No.:C- 2011000036

And the following individuals:)
Maura Carroll; Keith R. Burke; Stephen A. Moltenbrey;)
Paul G. Beecher; Robert A. Berry; Roderick MacDonald;)
Peter J. Curro; April D. Whittaker; Timothy J. Ruehr;)
Julia A. Griffin; and John Andrews)

RESPONDENTS)

MODIFICATION TO SCHEDULING ORDER

On December 14, 2011 a Scheduling Order was issued regarding these proceedings that specifically related to the dates for identification of experts and the availability of expert reports. On December 22, 2011 a motion was filed by respondent Andrews stating that a phrase appearing in section 6 of that order affecting the date for identification of the parties’ respective experts is at odds with the parties’ understanding during an informal conference of counsel which was conducted by the undersigned on December 6, 2011.

The section in the December 14, 2011 order read as follows:

“4. The BSR shall provide to the respondents its forensic accountant’s *expert report* no later than thirty (30) days following the completion of it’s on-site examination of the records of LGC and its affiliates. Thereafter, the BSR shall not be allowed to further amend its petition unless new evidence incapable of being reasonably discovered prior to the completion of said report or other similarly restrictive good cause can be shown. (italics added)

5. The respondents shall provide their financial *experts' reports* to the BSR on or before February 17, 2012. (italics added)

6. "Any *expert* not previously identified by the petitioner or the several respondents as of the date of this order shall not be allowed to provide evidence at hearing unless he or she is allowed by mutual agreement of all parties." (italics added)

The motion inaccurately references the language of the December 9, 2011 order. Sections #4 and #5 relate to the dates that the parties' respective expert *reports* would be available. Section #6 relates to the identity of the *expert*. The revelation of the identity of an expert is a separate and distinct action that precedes the completion of his or her report. Section #4 provides a date by which the BSR experts' reports would be made available to the respondents. Section #5 provides a date by which the respondents' expert reports would be made available. Section #6 provides a date, *i.e.* the date of the order, at which the parties revealed the identity of their experts.

The presiding officer's notes reflect that in the process of setting the identity date before the report availability date the parties actually identified their intended experts and that at least one newly named person, Richard Samuels, was identified as an additional expert to be called for testimony in the area of corporations and corporate formation. However, as the parties had eleven (11) attorneys present at the conference and at times there was more than one conversation taking place concurrently, full concurrence may not have been achieved despite the presiding officer's recollection.

Notwithstanding the presiding officer's present belief and authority, and the clear distinction in the existing order between revealing the identity of an expert and the date for availability of that expert's opinion, the parties' counsel have apparently reached an agreement that their discovery process will be more adequately served with an extension of time for the parties to identify their experts. Such is the effect of the representation that all parties assent to respondent Andrews' request.

Therefore, it is ordered as follows:

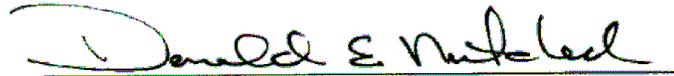
A. The scheduling order of December 14, 2011 shall be modified by deleting section #6 in its entirety and replacing it with the following text:

6. "Any expert who is not identified and for whom an expert report is not produced by the following deadlines shall not be allowed to provide evidence at hearing unless he or she is allowed by mutual agreement of all parties: for the BSR- thirty (30) days following the completion of its on-site examination of the LGC records; and for the respondents – February 17, 2012."

B. All other provisions of previous orders not inconsistent with this language shall remain in full force and effect.

C. Providing further that this modification and extension, requested by the parties, shall not serve to delay the scheduled conduct of these administrative proceedings to any extent.

So ordered, this 23rd day of December, 2011

A handwritten signature in black ink, reading "Donald E. Mitchell", written over a horizontal line.

Donald E. Mitchell, Esq.
Presiding Officer

SERVICE LIST

cc: Jeffrey D. Spill, Esq.
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